

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1607

Introduced by Assembly Member Keene

February 21, 2003

~~An act relating to hazardous substances. An act to add Chapter 6.3 (commencing with Section 25050) to Division 20 of the Health and Safety Code, relating to hazardous substances.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1607, as amended, Keene. Hazardous substances: *illegal methamphetamine laboratories: chain-of-title cleanup.*

~~Existing~~

~~(1) Existing law regulates the handling, treatment, recycling, and disposal of hazardous wastes. Existing law requires an owner of residential real property who knows, as defined, of any release of an illegal controlled substance that is located on or beneath that real property to give written notice of that condition to the buyer prior to its sale, as specified. Existing law provides for the establishment of a recorder's office in each county, and establishes procedures for the recordation of authorized documents relating to real property. Existing law makes it a crime to knowingly rent or lease space for the purpose of unlawfully manufacturing any controlled substance.~~

~~This bill would state the intent of the Legislature to require a local entity, when evidence of the manufacture of methamphetamine is discovered on a property, to file a standardized form that would state that there may have been drug manufacturing activities on the property, and which would be recorded by the county recorder in the chain of title~~

~~for the property~~ require law enforcement, when it finds a property where methamphetamine has been illegally manufactured, to contact the appropriate county health department and if the department inspects the property and makes a specified determination, the department would be required to identify the property owner and send a certificate of nuisance to the owner.

The bill would require an owner that receives a certificate of nuisance to hire an industrial hygienist, as defined, at the owner's own expense, to perform an environmental assessment. The department would be required to review the environmental assessment and determine whether a corrective action is necessary.

The bill would require the property owner to pay the department for the costs incurred in working with the hygienist in overseeing the corrective action. The bill would require the department to conduct an environmental assessment and take corrective action, if the department determines a property owner is not in compliance with the requirements imposed by the bill. If a property owner fails to pay for the department's costs in taking those actions, the bill would require the department to impose a lien for the costs incurred by the department in taking those actions. The bill would require the department to record a release of the lien and to send the owner a notice indicating that the owner has satisfied the owner's obligations, as specified, after the property owner has paid for the costs of taking those actions. By creating new duties for county agencies, this bill would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

~~SECTION 1. It is the intent of the Legislature to enact an act that would do following:~~

~~(a) Require local law enforcement or another local entity, such as a hazardous materials team or environmental health office, when evidence of the manufacture of methamphetamine is discovered on a property, to file a standardized form that would state that there may have been drug manufacturing activities on the property.~~

~~(b) Require the entity responsible for filing this form to mail it to the appropriate county recorder's office where it would be entered into the chain of title for the property where the evidence of drug manufacturing activities were found.~~

SECTION 1. Chapter 6.3 (commencing with Section 25050) is added to Division 20 of the Health and Safety Code, to read:

*CHAPTER 6.3. ILLEGAL METHAMPHETAMINE LABORATORY
CONTAMINATION*

25050. For purposes of this chapter, the following definitions shall apply:

(a) "Corrective action" includes a removal action, as defined in Section 25323, and a remedial action, as defined in Section 25322.

(b) "Department" means a county department of health.

(c) "Environmental assessment" has the same meaning as a preliminary endangerment assessment, as defined in Section 25319.5.

25051. (a) If law enforcement finds a property where methamphetamine has been illegally manufactured, it shall contact the appropriate department to inspect the property for environmental hazards.

(b) If, after receiving a notification pursuant to subdivision (a), a department inspects the property and concludes that there is a serious risk to the life, health, property, safety, or welfare of any occupant of the property, the public, or the adjacent neighborhood, the department shall identify the owner of the property and shall send a certificate of nuisance to the owner. The certificate of nuisance shall describe the environmental hazard on

1 *the property and shall state that the property owner is responsible*
2 *for conducting an environmental assessment of the property*
3 *pursuant to this section and for taking all necessary corrective*
4 *actions.*

5 *(c) Within 30 days after the date that the owner receives a*
6 *certificate of nuisance, the owner of the property shall complete*
7 *the environmental assessment and all necessary corrective actions*
8 *required pursuant to this chapter.*

9 25052. *(a) Upon receiving a certificate of nuisance from the*
10 *department pursuant to Section 25051, the owner of the property*
11 *shall, at his or her expense, obtain the services of an industrial*
12 *hygienist, certified pursuant to Chapter 7 (commencing with*
13 *Section 20700) of Division 8 of the Business and Professions Code.*

14 *(b) The industrial hygienist hired pursuant to subdivision (a)*
15 *shall perform an environmental assessment of the property and*
16 *shall submit a written report to the department. The department*
17 *shall review the environmental assessment and make one of the*
18 *following determinations:*

19 *(1) If the department determines the approved environmental*
20 *assessment shows that the property does not need corrective action*
21 *and the property owner has paid the department for the full cost*
22 *of all services rendered, the corrective action for that property*
23 *shall be deemed completed.*

24 *(2) (A) If the department determines that the environmental*
25 *assessment demonstrates that a corrective action is necessary, the*
26 *owner of the property shall take a corrective action to the property*
27 *in accordance with that environmental assessment.*

28 *(B) All hazardous waste generated as a result of a corrective*
29 *action taken pursuant to this chapter shall be managed in*
30 *accordance with Chapter 6.5 (commencing with Section 25100)*
31 *and shall be disposed of in a hazardous waste facility issued a*
32 *permit or authorized pursuant to Chapter 6.5 (commencing with*
33 *Section 25100).*

34 *(c) The department shall work with the industrial hygienist in*
35 *overseeing a corrective action taken pursuant to this chapter.*

36 *(d) The owner of the property shall pay for, and is liable for,*
37 *necessary costs incurred by the department pursuant to this*
38 *chapter in overseeing the corrective action, including all*
39 *inspections of the property conducted pursuant to this section.*

1 25053. (a) If the department determines that the owner of a
2 property who has received a certificate of nuisance pursuant to this
3 chapter has not completed an environmental assessment or has not
4 taken all necessary corrective action in compliance with this
5 chapter, the department shall conduct an environmental
6 assessment and take all necessary corrective actions at that
7 property.

8 (b) After the department completes an environmental
9 assessment or a corrective action, or both, pursuant to subdivision
10 (a), the department shall send the property owner a bill for the
11 costs incurred by the department in undertaking the environmental
12 assessment or corrective action, or both, including all costs for the
13 inspection of the property.

14 (c) If a property owner fails to pay the department within 30
15 days of receiving a bill pursuant to subdivision (b), the department
16 shall record or cause to be recorded a lien on the property in the
17 office of the county recorder for those costs and damages incurred
18 by the department in conducting the environmental assessment
19 and all necessary corrective actions. The lien for the recovery of
20 costs and damages shall state that it is recorded pursuant to
21 Section 25365.6, and the lien shall have the force, affect, and
22 priority of a judgment lien.

23 (d) On the date when the department receives a full payment
24 from the property owner for the costs that are the subject of a lien
25 imposed pursuant to subdivision (c), the department shall record
26 or cause to be recorded in the office of the county recorder a release
27 of the lien imposed pursuant to subdivision (c). The department
28 shall also send the property owner a notice indicating that the
29 owner has satisfied the owner's obligations under this chapter and
30 that the lien on the property has been released.

31 SEC. 2. Notwithstanding Section 17610 of the Government
32 Code, if the Commission on State Mandates determines that this
33 act contains costs mandated by the state, reimbursement to local
34 agencies and school districts for those costs shall be made
35 pursuant to Part 7 (commencing with Section 17500) of Division
36 4 of Title 2 of the Government Code. If the statewide cost of the
37 claim for reimbursement does not exceed one million dollars

1 *(\$1,000,000), reimbursement shall be made from the State*
2 *Mandates Claims Fund.*

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